



## Council Report

To: The Honorable Mayor and City Council

From: Aleem A. Ghany, P.E., Public Works Director

AG

Date: August 27, 2013

**RE:** A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF NORTH MIAMI, IN SUBSTANTIALLY THE ATTACHED FORM, FOR THE DELEGATION OF SOLID WASTE COLLECTION AUTHORITY OF AN AREA ANNEXED FROM UNINCORPORATED MIAMI-DADE COUNTY TO THE CITY OF NORTH MIAMI (OTHERWISE KNOWN AS "AREA 3"), IN ACCORDANCE WITH THE CODE OF MIAMI-DADE COUNTY AND CITY OF NORTH MIAMI RESOLUTIONS NO. R-2011-150 AND NO. R-2013-6; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.

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### **RECOMMENDATION**

Staff is recommending City Council approve amendment of the Miami-Dade County Inter-local Agreement for Solid Waste Collection. This will allow the City's Contractor Waste-Pro to service the annexed "area 3" as identified in Resolution No R- 2011-32 and Miami-Dade Ordinance No 13-31. The City's Contractor will be responsible for the collection and disposal of all solid Waste and recycling customers within the annexed area, previously serviced by Miami-Dade Public Works Solid Waste Division.

### **BACKGROUND**

In April of 2013, the City of North Miami's municipal boundaries changed due to the annexation of a portion of Miami County. The area is bounded to the North by NE 135 Street, NE 131 Street to the south, Biscayne Canal to the west and NE 4 Avenue to the east.

Pursuant to the Miami-Dade County's Code of Ordinance 13-31, Section 20-84, the City is now responsible for the collection and disposal of all solid waste within the annexed area.



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### **ATTACHMENTS**

- (1) Resolution No. R-2011-150 and Resolution No. R-2013-6
- (2) Memorandum from Miami-Dade County
- (3) Miami-Dade Ordinance #13-31

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF NORTH MIAMI, IN SUBSTANTIALLY THE ATTACHED FORM, FOR THE DELEGATION OF SOLID WASTE COLLECTION AUTHORITY OF AN AREA ANNEXED FROM UNINCORPORATED MIAMI-DADE COUNTY TO THE CITY OF NORTH MIAMI (OTHERWISE KNOWN AS "AREA 3"), IN ACCORDANCE WITH THE CODE OF MIAMI-DADE COUNTY AND CITY OF NORTH MIAMI RESOLUTIONS NO. R-2011-150 AND NO. R-2013-6; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.**

**WHEREAS**, Section 1.01A(9) of the Miami-Dade County ("County") Home Rule Charter, authorizes the County to provide and regulate waste collection and disposal services ("Services") County-wide; and

**WHEREAS**, pursuant to Section 15-13 of the County Code, the County provides residential Services in the unincorporated areas located within the County's solid waste collection service area, as defined by Section 15-1 of the County Code; and

**WHEREAS**, on February 6, 1996, the Board of County Commissioners passed Ordinance 96-30, providing that the County shall forever continue to collect and dispose of all residential solid waste in annexed areas, unless the authority to collect such solid waste is delegated by the County to the governing body of the municipality through an Interlocal Agreement; and

**WHEREAS**, on November 22, 2011, the City of North Miami ("City"), passed and adopted Resolution No. R-2011-150, initiating the annexation into the City, the area bordered on the west side by the Biscayne Canal, on the east side by Northeast 4<sup>th</sup> Avenue, on the south side by Northeast 131<sup>st</sup> Street, and on the north side by Northeast 135<sup>th</sup> Street (otherwise known as "Area 3"); and

**WHEREAS**, on January 22, 2013, the City passed and adopted Resolution No. R-2013-6, delineating maintenance, operational and financial responsibilities in conjunction with the

annexation of Area 3 into the City, which is within the County's solid waste collection service area; and

**WHEREAS**, in accordance with the applicable sections of the County Code, and Resolutions No. R-2011-150 and No. R-2013-6, the City is poised and fully prepared to provide for adequate residential Services within the newly annexed Area 3; and

**WHEREAS**, the Mayor and City Council find that the execution of an Interlocal Agreement, in substantially the attached form, delegating to the City Solid Waste Collection Authority for the newly annexed Area 3, is in the best interest of the City.

**NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:**

**Section 1.**     **Authority of City Manager.** The Mayor and City Council of the City of North Miami, Florida, hereby authorize the City Manager to execute an Interlocal Agreement between Miami-Dade County and the City of North Miami, in substantially the attached form, for the Delegation of Solid Waste Collection Authority of an area annexed from Unincorporated Miami-Dade County to the City of North Miami (otherwise known as, "Area 3"), in accordance with the Code of Miami-Dade County and City of North Miami Resolutions No. R-2011-150 and No. R-2013-6.

**Section 2.**     **Effective Date.** This Resolution shall become effective immediately upon adoption.

**PASSED AND ADOPTED** by a \_\_\_\_\_ vote of the Mayor and City Council of the City of North Miami, Florida, this \_\_\_\_\_ day of August, 2013.

\_\_\_\_\_  
LUCIE M. TONDREAU  
MAYOR

ATTEST:

\_\_\_\_\_  
MICHAEL A. ETIENNE, ESQ.  
CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

\_\_\_\_\_  
REGINE M. MONESTIME  
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

**Vote:**

Mayor Lucie M. Tondreau	_____ (Yes)	_____ (No)
Vice Mayor Marie Erlande Steril	_____ (Yes)	_____ (No)
Councilperson Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Carol F. Keys, Esq.	_____ (Yes)	_____ (No)
Councilperson Philippe Bien-Aime	_____ (Yes)	_____ (No)

**INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND CONTRACT  
CITIES FOR DELEGATION OF SOLID WASTE COLLECTION AUTHORITY IN  
AREAS ANNEXED FROM UNINCORPORATED MIAMI-DADE COUNTY**

This Interlocal Agreement ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between Miami-Dade County, by and through its Board of County Commissioners ("County"), and the City of North Miami its successors and assigns, hereinafter referred to as the Contract City, to authorize Contract City provision of solid waste collection services in the annexed area as described in Exhibit A herein, coincident with the suspension of County provided solid waste collection services in such area for the term of this Agreement.

**BACKGROUND RECITALS**

**Whereas**, the Miami-Dade County Board of County Commissioners (the "Board") hereby finds and declares that it is necessary to the health, safety and welfare of the citizens of Miami-Dade County to ensure that adequate Solid Waste collection services are provided countywide; and

**Whereas**, ~~Section 1.01A(9) of~~ the Miami-Dade County Home Rule Charter authorizes the County to provide and regulate waste collection and disposal services countywide; and

**Whereas**, pursuant to ~~Section 15-13 of~~ the Code of Miami-Dade County, Florida (Code), the County provides residential Solid Waste collection services in those portions of unincorporated Miami-Dade County located within the County's solid waste collection service area, ~~as defined in Section 15-1 of the Code~~; and

**Whereas**, on February 6, 1996, the Board of County Commissioners passed Ordinance 96-30 which created Section 20-8.4 of the Code, which provides that the County shall forever continue to collect and dispose of all residential waste in annexed areas, unless the authority to collect such waste is delegated by the County to the governing body of the municipality through a twenty (20) year Interlocal agreement which provides for collection services, and a twenty (20) year Interlocal agreement which provides for disposal services in substantially the form approved by Resolution No. R-1198-95; and

**Whereas**, the Contract City has annexed a portion of unincorporated Miami-Dade County which contains a part(s) of the solid waste collection service area, and the Contract City desires and is fully prepared to provide for adequate residential solid waste collection services within the annexed area; and

**Whereas**, the Contract City has entered into a twenty (20) year interlocal agreement with the County for use of the County Solid Waste Management system dated January 22, 1996.

**NOW THEREFORE**, in consideration of the foregoing premises, and the mutual considerations contained herein, the parties hereto, intending to be legally bound, do hereby agree as follows:

**DEFINITIONS**

For the purposes of this Agreement, the following capitalized words and phrases shall be given the following respective meanings:

**Board** - the Miami-Dade County Board of County Commissioners.

**Contract City** - the municipal corporation existing under the laws of the State of Florida, that enters into this Agreement with the County and has previously entered, or simultaneously enters, into a twenty (20) year interlocal agreement with the County for use of the County Solid Waste Management System.

**County** - Miami-Dade County, Florida by and through its Board of County Commissioners.

**Director** - the Director of the Public Works and Waste Management Department or his/her designee.

**Fiscal Year** - the period beginning October 1 of each year and ending September 30 of the subsequent year.

**Force Majeure** - an act of God, epidemic, lightning, earthquake, fire, explosion, storm, hurricane, flood or similar occurrence, strike, and act of a public enemy, or blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has had or may reasonably be expected to have a material adverse effect on the rights or obligations under this Agreement, which by the exercise of due diligence the party relying thereon as justification for not performing any obligation under this Agreement shall not have been able to avoid, and which is not the result of a willful or negligent action or omission of such party.

**Municipal Solid Waste (MSW) or Solid Waste or Waste** - all discarded materials or substances, exclusive of source-separated recyclable materials, including, but not limited to, garbage, trash, yard trash, litter, refuse, rubbish, recycling process residue, or other materials allowed by the State Department of Environmental Protection for disposal in a Class I landfill, Class III landfill or resource recovery facility which result from domestic, commercial, industrial, mining, agricultural or governmental activities, but not including sewage or other highly-diluted, water-carried materials or substances, or those in gaseous form.

**Source-Separated Recyclable Materials** - materials separated from MSW at their source of generation which are set-out for collection at their source of generation. Such materials shall be limited to: clean yard trash, newspapers, telephone books, household batteries, glass containers, plastic containers, steel cans, aluminum cans, and other source-separated recyclable materials as may be added to this listing from time to time by the County Mayor, at his/her sole discretion; such additions may be made by use of an attachment hereto without need for formal amendment to this Agreement.

**ARTICLE 1**

**CONSTRUCTION OF INTERLOCAL AGREEMENT**

The word "shall" as used in this Agreement shall in all cases be construed to be mandatory and to require the action so modified by the word "shall" to be taken without regard to the exercise of discretion.

**ARTICLE 2**

**RESPONSIBILITIES OF THE PARTIES**

**COUNTY.** The County shall, and does hereby delegate the authority to collect residential Solid Waste generated in the annexed area, commonly referred to as \_\_\_\_\_, and geographically described in Exhibit A, to the governing body of the Contract City effective \_\_\_\_\_.

**CONTRACT CITY.** The Contract City shall provide for residential solid waste collection service to the annexed area, commonly referred to as \_\_\_\_\_, and geographically described in Exhibit A effective \_\_\_\_\_.

**ARTICLE 3**

**RELATIONSHIPS OF THE PARTIES**

Nothing in this Agreement shall be deemed to constitute any party a partner, agent or local representative of the other party or to create any type of fiduciary responsibility of any kind whatsoever between the parties. The obligations to this Agreement are not joint; the obligations are separate and several between the Contract City and County.

**ARTICLE 4**

**HEADINGS**

Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement and shall not affect the meaning or interpretation of any provisions herein.

**ARTICLE 5**

**DURATION OF AGREEMENT**

The term of this Agreement shall commence with the date of execution and shall remain in effect up to and including **December 31, 2033**. In the event that a Contract City's twenty (20) year Interlocal agreement for use of the County Solid Waste Management System is terminated, this Agreement shall terminate simultaneously. This Agreement shall be executed and approved by resolution of the Contract City's governing body. A copy of the resolution of approval shall be transmitted to the County Mayor within five (5) days following the date of Contract City approval.

**ARTICLE 6**

**AGREEMENT GOVERNS; ENTIRE AGREEMENT**

This Agreement shall govern and supersede any other Interlocal Agreement between the Contract Cities and the County with regard to residential solid waste collection. This writing embodies the entire Agreement and understanding between the parties hereto, and there are no other agreements or understandings, oral or written with reference to the subject matter hereof that are not merged herein and superseded hereby.



**ARTICLE 7**

**REPRESENTATIONS OF THE COUNTY**

The County represents that (A) this Agreement has been duly authorized, executed and delivered by the Board of County Commissioners as the governing body of the County, and (B) it has the required power and authority to perform this Agreement.

**ARTICLE 8**

**REPRESENTATIONS OF THE CONTRACT CITY**

The Contract City represents that (A) this Agreement has been duly authorized, executed and delivered by the Governing Body of the Contract City, and (B) it has the required power and authority to perform this Agreement.

**ARTICLE 9**

**APPROVALS AND NOTICES**

All notices, consents and other communications required, permitted or otherwise delivered under this Agreement shall be in writing and be delivered either by hand with proof of delivery or mailed by first class United States certified or registered mail, with return receipt requested, postage prepaid, and in any case shall be addressed as provided in this Article.

**To County:**

Miami-Dade County Florida  
Office of the Mayor  
111 N.W. 1st Street, 29th Floor  
Miami, FL 33128

cc: Public Works and Waste Management Department  
Director's Office  
2525 NW 62<sup>nd</sup> Street, Fifth Floor  
Miami, FL 33147

cc: Miami-Dade County  
County Attorney's Office  
111 N.W. 1st Street, 27th Floor  
Miami, FL 33128

**To Contract City:**

City of North Miami  
City Manager's Office  
776 NE 125<sup>th</sup> Street - 4<sup>th</sup> Floor  
City of North Miami, FL 33161

cc: City of North Miami  
City Attorney's Office  
776 NE 125<sup>th</sup> Street - 1<sup>st</sup> Floor  
City of North Miami, FL 33161

Changes in the respective addresses may be made from time to time by either party by notice to the other party. Notices and consents given by mail in accordance with this section shall be deemed to have been given five (5) business days after the day of dispatch, notices and consents given by any other means shall be deemed to have been given when received.

#### **ARTICLE 10**

##### **AMENDMENT TO AGREEMENT**

This Agreement may be modified, altered or amended only by a written amendment duly executed by the parties hereto, and approved by the governing body of each party. Any oral representations or modifications concerning this Agreement shall be of no force or effect.

#### **ARTICLE 11**

##### **NON-ASSIGNMENT**

In no case shall the Contract City assign, transfer, convey or otherwise hypothecate any interest, rights, duties, or obligations hereunder, or any part thereof. In the event a Contract City attempts to assign, transfer, convey or otherwise hypothecate this Agreement or the Contract City's rights, duties or obligations hereunder, or any part thereof, the County may at its option, terminate this Agreement.

#### **ARTICLE 12**

##### **RIGHTS OF OTHERS**

Nothing in this Agreement, either express or implied, is intended to confer upon any person other than the parties hereto any rights or remedies under or by reason of this Agreement.

#### **ARTICLE 13**

##### **WAIVER**

There shall be no waiver of any right related to this Agreement unless that such waiver is in writing signed by the party waiving such right. No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular rights waived and shall not be deemed a waiver of the same right at a later time, or of any other right under this Agreement.

#### **ARTICLE 14**

##### **COUNTY EVENT OF DEFAULT**

The failure by the County to substantially fulfill any of its material obligations in accordance with this Agreement, unless excuses are justified by Force Majeure, shall constitute a "County event of default". If a County event of default should occur, the Contract City shall have all of the following rights and remedies which each may exercise singly or in combination: 1. the right to declare that this Agreement as it applies to the Contract City together with all rights granted to the County hereunder are terminated, effective upon such date as is designated by the Contract City; 2. any and all other rights provided under federal laws and the laws of the State of Florida. 3. in any event, the County shall maintain responsibility for any debts owed to the Contract City for services provided under the terms of this Agreement. Notwithstanding any other provision of this article, the Contract City shall not terminate this Agreement for a "County event of default" unless the Contract City first gives the County written notice of intent to

terminate specifying the alleged default, and providing the County a period of sixty (60) days from receipt of notice within which to cure such default.

#### **ARTICLE 15**

##### **CONTRACT CITY EVENT OF DEFAULT**

Without limitation, the failure by the Contract City to substantially fulfill any of its material obligations in accordance with this Agreement, unless excuses are justified by Force Majeure, shall constitute a "Contract City event of default". If a Contract City event of default should occur, the County shall have all of the following rights and remedies which it may exercise singly or in combination: 1. the right to declare that all rights granted to the Contract City hereunder are terminated, effective upon such date as is designated by the County; 2. any and all rights provided under federal laws and the laws of the State of Florida. 3. in any event, the Contract City shall maintain responsibility for any debts owed to the County for services provided under the terms of this Agreement. Notwithstanding any other provision of this article, the County shall not terminate this Agreement for a "City event of default" unless the County first gives the Contract City written notice of intent to terminate specifying the alleged default, and providing the Contract City a period of sixty (60) days from receipt of notice within which to cure such default.

#### **ARTICLE 16**

##### **FLORIDA LAW GOVERNS; VENUE IN MIAMI-DADE COUNTY, FLORIDA**

This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida, and venue shall be in Miami-Dade County, Florida.

#### **ARTICLE 17**

##### **TERMINATION**

This Agreement may be terminated upon mutual consent, in writing, between the Contract City and the County.

#### **ARTICLE 18**

##### **COUNTERPARTS**

This Agreement may be executed in one or more counterpart(s), each of which shall be deemed an original.

#### **ARTICLE 19**

##### **INVALIDITY OF PROVISIONS**

Should any provision, paragraph, sentence, word or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, and this Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, Miami-Dade County, Florida, has caused this Agreement to be executed in its name by the County Mayor or his/her designee, attested by the Clerk of the Board of County Commissioners and has caused the seal of the Board of County Commissioners to be hereto attached; and the Contract City, has caused this Agreement to be executed by the Manager/Mayor of the Contract City or his/her designee, attested by the Clerk of the Contract City's governing body and has caused the seal of the Contract City's governing body to be hereto attached, all on the day and year first written above.

MIAMI-DADE COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

ATTEST:  
HARVEY RUVIN,  
Clerk of the Board

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Mayor  
Miami-Dade County Florida  
111 N.W. 1st Street, 29th Floor  
Miami, FL 33128

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY BY:  
Miami-Dade County Attorney's Office  
111 N.W. 1st Street  
Miami, FL 33128

\_\_\_\_\_  
Assistant County Attorney

CONTRACT CITY

City of North Miami

ATTEST:

By: \_\_\_\_\_  
Stephen E. Johnson  
City Manager

\_\_\_\_\_  
Michael A. Etienne, Esq.  
City Clerk

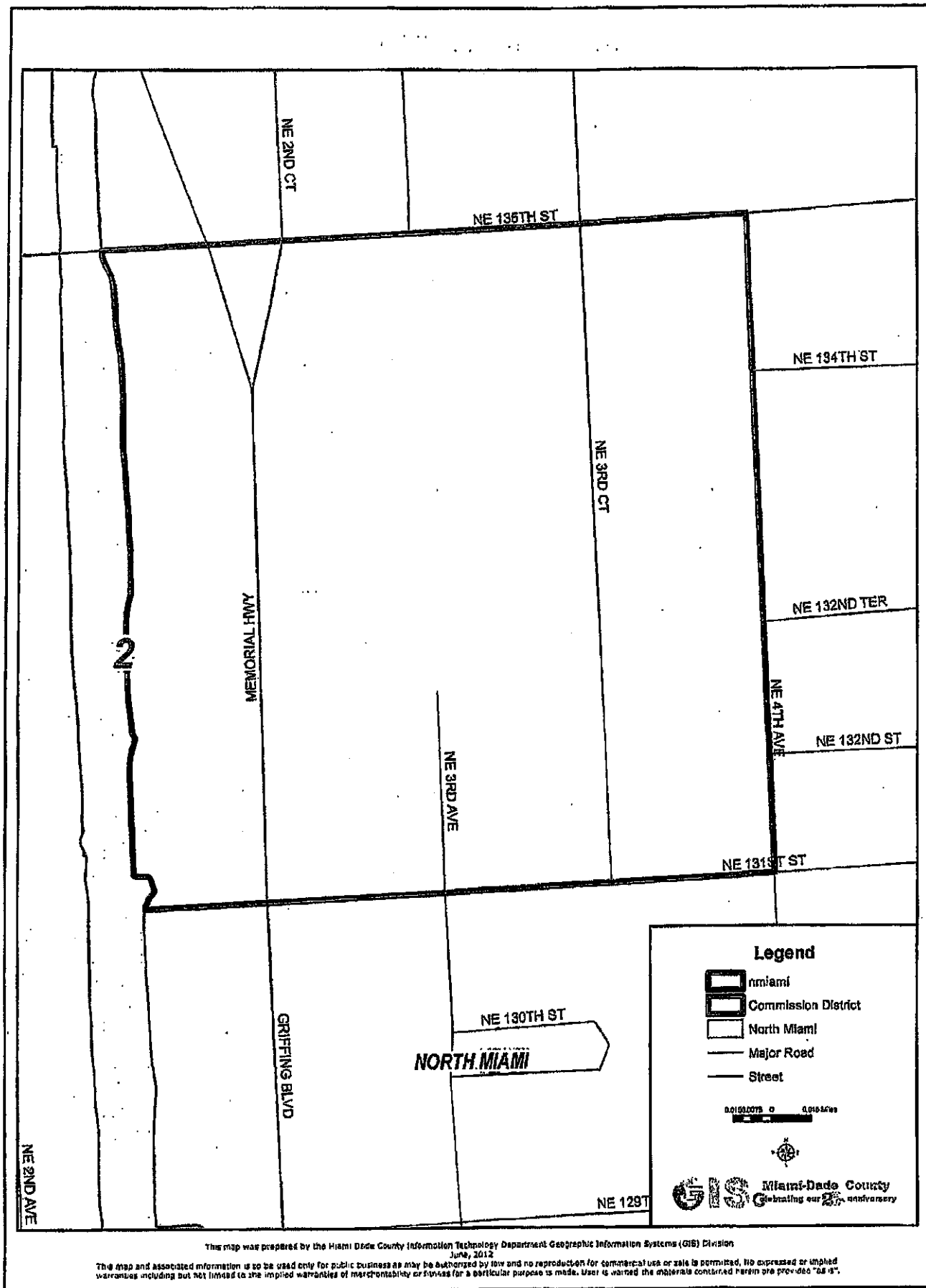
This \_\_\_\_\_ day of \_\_\_\_\_,

[corporate seal]

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

\_\_\_\_\_  
Regine Monestime, Esq.  
City Attorney

EXHIBIT A



This map was prepared by the Miami Dade County Information Technology Department Geographic Information Systems (GIS) Division  
June, 2012

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